REMARKS/ARGUMENTS

Claim 34 is pending in the application.

Claim rejection under 35 USC § 112 first paragraph

Claim 34 was rejected under 35 USC § 112 first paragraph as failing to comply with the enablement requirement under the reasoning that the claim language "a display state of the display controls is determined" was not described in the specification as to suitably enable one skilled in the art to make or use the invention. In the previous Office Action response, Applicant pointed out Figure 1c and accompanying text as enabling the claim language as to "display states." In the present Office Action, the Office concludes that the "*Examiner has reviewed the Figure and text and was unable to discern how the disclosure is enabling for determining the display state of display controls* (emphasis added)."

Applicant argues that the specification is satisfactorily enabling for all the subject matter of claim 34, particularly for the claim element "a display state of the display controls is determined." In claim 34, a display state of the display controls is determined by the program itself or the user, because all interactive elements have states. The manner(s) of determining a display state is inherent in a display control. In support of this position, Applicant adopts the Office's own argument on this matter:

> "Inherently, a display state of the display controls is determined, as all interactive elements have states, the states being determined by the program itself or the user" (Office Action, page 3, lines 17-19).

Thus, the Office has raised a 35 USC § 112 first paragraph rejection, but answers the rejection in the 35 USC § 103 part of the same Office Action.

Applicant respectfully suggests that the Office has demonstrated how claim 34 is enabled, and asks that the 35 USC § 112 first paragraph rejection be removed.

Claim rejection under 35 USC § 103(a)

Claim 34 was rejected under 35 USC § 103(a) as being unpatentable over "WinAmp2: WinAmp's Subwindows" and the "Skin" reference, both as previously presented in previous Office Actions by the Patent Office.

The Office has not presented a prima facie case of obviousness. Applicant's claim 34 defines one or more media containing instructions that, when executed in appliances that use embedded computing elements..."

The WinAmp2 reference and the Skin reference, either alone or in combination, do not teach or suggest instructions that can be executed in appliances that merely use embedded computing elements. It was pointed out in the Examiner Interview of November 4, 2004 and in the previous Office Action response, that Applicant's list system, provides a standardized list generator (e.g., a *generic*, universal engine, that extends an API and works across different platforms and applications) that can be included by original equipment manufacturers (OEMs) in appliances that use embedded computing elements: e.g., a car, a kitchen blender with a face display, a sound system, etc. In other words, Applicant's subject matter provides a pre-packaged list display system or interface (API) that works in a wide variety of appliances and applications, without an OEM having to write custom list generating code for each particular

platform or application. Claim 34 defines code that can be included, for example, in a kitchen blender to provide a graphic user interface list system.

WinAmp2 and Skin would not work in appliances that have only embedded computing elements. At the website provided by the Office in the Office Action, the minimum system requirements for WinAmp versions are given, and these teach away from Applicant's claim 34. For example, for WINAMP version 2 the website states:

> "What are Winamp's System Requirements? A fast 486 or (optimally) a Pentium or better, running Windows 95, 98, 2000, or NT 4. Or, perhaps, WINE under XWindows. To my experience, it should be a Pentium 100 with 48 Meg of RAM at minimum to prevent the MP3s from skipping."

Moreover, the minimum system requirements for WINAMP5 are:

- 64MB RAM
- 15MB Hard Disk Space
- 16bit Sound Card
- Windows 98 SE, Windows ME, Windows 2000, Windows XP, Windows 2003
- 1x speed or greater CD Burner (Required for Burning)
- 2x speed or greater CDROM (Required for Ripping)

while the recommended system requirements for WinAmp5 are:

- 1.5 GHz Pentium IV or comparable
- 128MB RAM

- 30MB Hard Disk Space
- 32bit Sound Card
- Windows 2000, Windows XP
- 8x speed or greater CD Burner (Required for Burning)
- 16x speed or greater CDROM (Required for Ripping)

Thus, it would not have been obvious to take WinAmp2, which minimally requires Windows 98, 64MB RAM, 15MB Hard Disk Space, etc., and combine this with the Skin reference, to arrive at Applicant's claim 34, which can be included by original equipment manufacturers (OEMs) in appliances that use embedded computing elements: e.g., a car, a kitchen blender with a face display, a sound system, etc.

It should be noted that "embedded computing refers to the use of microprocessors within dedicated devices for control or communications purposes, as opposed to more general computational purposes as in a personal computers or personal digital assistants. Unlike more traditional forms of computing, embedded computers interact more directly with the physical world, monitoring changes in their environment through a variety of sensors and controlling the response of the device through a series of actuators. Embedded computers currently control a range of devices, from household appliances like refrigerators and ranges, to telephone and cellular connections, to anti-lock brakes on automobiles and cockpit displays on aircraft." (See, the link: http://www7.nationalacademies.org/cstb/project_embedded_prospectus.html)

Applicant therefore respectfully points out that WinAmp2 reference and the Skin reference, either alone or in combination, do not teach or suggest Applicant's claim 34. Applicant further suggests that claim 34 is in condition for allowance.

Conclusion

Applicant respectfully suggests that claim 34 is in condition for allowance. Should any matter in this case remain unresolved, the undersigned attorney respectfully requests a telephone conference with the Examiner to resolve any such outstanding matter.

Respectfully Submitted,

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